



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
GAINESVILLE REGULATORY OFFICE
101 NW 75TH STREET, SUITE 3
GAINESVILLE, FLORIDA 32607-1609

ATTACHMENT # 6
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Regulatory Division
North Permits Branch
SAJ-2004-263-KCF

July 21, 2004

City of Tallahassee
Stormwater Management Division
Attn: Mr. Jim Lee
300 South Adams Street, B-35
Tallahassee, Florida 32301

Dear Mr. Lee:

Reference is made to your request to improve the a drainage feature, (Northeast Drainage Ditch) to alleviate associated flooding issues. The City of Tallahassee proposes to improve the system by deepening and widening the conveyance. The proposed activity would take place at Section 16, Township 1 North, Range 1 East, Leon County, Florida. Your project was assigned permit number SAJ-2004-263-KCF.

The Supreme Court decision, Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, No. 99-1178 (January 9, 2001) (SWANCC) involved the scope of regulatory authority under Section 404 of the Clean Water Act. The court held that assertion of jurisdiction over "nonnavigable, isolated, intrastate" waters based solely on the use of such waters by migratory birds were not considered waters of the United States.

Given this ruling by the Supreme Court, a review of your project shows that it falls into the category described by the Supreme Court decision. Therefore, your project as proposed will not require a Department of the Army permit in accordance with Section 404 of the Clean Water Act as it will not involve the discharge of dredged or fill material into Waters of the United States. Providing the work is done in accordance with the drawings dated December 12, 2003, Department of the Army authorization will not be required.

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This letter does not give absolute authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone or floodway area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

This letter does not obviate the requirement to obtain any other Federal, State or local permits which may be necessary for your project.

Questions may be addressed to Kelly C. Finch at (386) 362-1001. Thank you for your cooperation with our regulatory program.

Sincerely,



FOR Osvaldo Collazo
Chief, North Permits Branch